

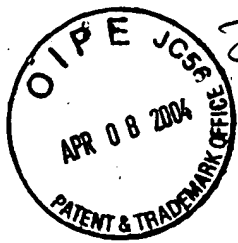


<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/006,848
		Filing Date	November 7, 2001
		First Named Inventor	McMillan, William A.
		Art Unit	1744
		Examiner Name	David A. Redding
Total Number of Pages in This Submission		Attorney Docket Number	020048-002540US

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard
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Firm or Individual	Townsend and Townsend and Crew LLP Chun-Pok Leung Reg. No. 41,405
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Date	4-5-04

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On

*April 5, 2004*

TOWNSEND and TOWNSEND and CREW LLP

By:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

WILLIAM A. McMILLAN et al.

Application No.: 10/006,848

Filed: November 7, 2001

For: DEVICE AND METHOD FOR  
LYSING CELLS, SPORES, OR  
MICROORGANISMS

Examiner: David A. Redding

Art Unit: 1744

Confirmation No.: 1015

RESPONSE TO OFFICE ACTION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed March 12, 1004. Applicants respectfully traverse the restriction requirement.

The restriction requirement is based on the allegation that the claims cover patentably distinct species:

Species I: Claims 1-11 directed to method and device for lysing cells using mechanical means (ultrasonic waves); and

Species II: Claims 12-21 directed to method and device for lysing cells using chemical coupled with mechanical means.

Claims 12-21, however, do not recite any "chemical" coupled with mechanical means. Therefore, the grounds for the restriction requirement does not exist. The Examiner is respectfully requested to withdraw the restriction requirement.

In the event that restriction requirement is maintained, Applicants would elect Species I (claims 1-11) for prosecution, and respectfully request that the Examiner explain the basis for the restriction requirement.

Respectfully submitted,



Chun-Pok Leung  
Reg. No. 41,405

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